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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
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	)	
Petition for Expedited Rulemaking of	)	RM-9101
LCI International Telecom Corp. and	)	
Competitive Telecommunications Association	)	
to Establish Technical Standards for	).	
Operations Support Systems	)	

REPLY COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

Wendy S. Bluemling
Director - Regulatory Affairs
227 Church Street
New Haven, CT 06510
(203) 771-8514

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I. INTRODUCTION

The Southern New England Telephone Company (SNET) hereby files these Reply Comments regarding the Petition for Expedited Rulemaking (Petition) filed jointly by LCI International Telecom Corporation (LCI) and the Competitive Telecommunications Association (CompTel) on May 30, 1997.[1] In its Petition, LCI and CompTel request the Federal Communications Commission (Commission) to institute a rulemaking concerning the requirements governing operations support systems (OSS) established by the Commission in its *Local Competition First Report and Order*.[2]

In its Reply Comments SNET will respond on three issues, (i) the Commission's lack of authority to grant relief sought by LCI and CompTel, (ii) SNET's proactive efforts

[1] FCC Public Notice released June 10, 1997, DA NO. 97-1211, RM-9101.
[2] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, Released August 8, 1996 ("First Report and Order").

to provide access to its OSSs and addressing service measurements, and (iii) AT&T's proposed Local Competition Users Group (LCUG) measurements.

Many commenters agree with SNET that the Commission has already adequately addressed and rejected the adoption of national performance standards in the *Second Report and Order on Reconsideration.*[3] Comments filed by parties seeking to impose new standards fail to present any arguments to support a different interpretation. In sum, SNET again requests that the Commission deny the relief sought by the LCI and CompTel Petition.

The July 18, 1997 decision of the United States Court of Appeals for the Eighth Circuit (Court's)[4] affirms that the Commission should not grant the petition. The Eighth Circuit Court decision reaffirms the jurisdiction of state commissions and federal courts over agreements for interconnection, unbundling of network elements and resale. The Court's decision makes clear that the states, not the Commission, have the authority to address the issues raised in the LCI/CompTel Petition. In accordance with the Court's decision, the Commission must deny the petition.

Regardless of the Commission's action on the LCI /CompTel Petition, SNET seeks to clarify that in Connecticut, Competitive Local Exchange Carriers (CLECs) are

[3] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Second Report and Order on Reconsideration, CC Docket No. 96-98, Released December 13, 1996, ("Second Report and Order"),at ¶ 13, see also SNET Comments filed July 10, 1997.

[4] Iowa Utilities Board v. FCC, Docket No. 96-3321, 1997 U.S. App LEXIS 18183 (8th Circuit, July 18, 1997).

gaining access to OSSs and that service measurements are being established. SNET has led the industry in the development of the first event driven interface, EDI. This interface is now available for use by the CLECs and in fact is being used by a major CLEC in Connecticut. SNET has proposed service measurements and the Connecticut Department of Public Utilities Commission (CT DPUC) has initiated a proceeding scheduled to complete by November, 1997. The industry in Connecticut is moving forward to making the Act a reality. This is evident by the continuous progress being made in Connecticut. The Commission can deny the LCI/CompTel petition without concern that the actions necessary to further local competition are occurring and will continue to occur.

Certain commenters supporting the Petition recommend that the OSS technical standards be resolved in the industry forums. SNET agrees with this recommendation. However, SNET also requests that service measurements be left to the state commissions to decide. Similar to the OSS issue, the appropriate jurisdiction to address service measurements are the state commissions because the services being measured are local - directly within the traditional purview of the states. Service measurements are today monitored by state commissions and must reflect each individual ILEC service capabilities. To establish national standards would ignore the specific capabilities and limitations of each ILEC, and interfere with the ILEC's ability to respond to individual customer needs. In addition, establishment of national standards would cause the ILEC to provide a superior level of service than what it currently provides today. Should the Commission grant the LCI/CompTel petition, SNET requests that the Commission proceed in a manner

consistent with the Eighth Circuit Court Decision, requiring CLECs to compensate the ILEC for service standards above what the ILEC provides itself.

II. STATE COMMISSIONS AND FEDERAL DISTRICT COURTS HAVE JURISDICTION OVER IMPLEMENTATION ISSUES REGARDING OSS.

The Eighth Circuit Court upheld the Commission's conclusion that access to operations support systems are subject to the nondiscriminatory access duty.[5] However, the Court's Decision dismisses the Commission's claim that it has the jurisdiction to review or enforce the terms of agreements made pursuant to Sections 251 and 252 and Section 2(b). According to the Court:

> The FCC's interpretation of its authority under section 208 also cannot survive the operation of Section 2(b)....[T]he obligations imposed by sections 251 and 252 fundamentally involve local intrastate telecommunications matters. Consequently, the state commission determinations that the FCC seeks to review and the agreements that it seeks to enforce also fundamentally deal with intrastate telecommunications matters. To reiterate, section 2(b) prevents the FCC from having jurisdiction over "charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communications services." Allowing the FCC either to review state commissions determinations regarding agreements implementing section 251 and 252 or to enforce the terms of such agreements effectively would provide the FCC with jurisdiction over intrastate communications in contravention of section 2(b)....[Such review or enforcement authority would enable the FCC to review and redetermine state commission determinations of the just and reasonable rates that incumbent LECs can charge their competitors for interconnection, unbundled access, resale--rates that we previously decided were off limits to the FCC....We conclude that the language and structure of the Act and combined with the operation of section 2(b) indicate that the provision of federal district court review contained in subsection 252(e)(6) is the exclusive means of obtaining review of state

[5] See *Iowa v. FCC* at 130-135.

> commission determinations under the Act and state commissions are vested with the power to enforce the terms of the agreements they approve.[6]

The Court's ruling indicates the Commission has no authority to review or enforce the terms of state approved agreements. The intent of the Act is that the Commission should take no action regarding CLECs' nondiscriminatory access to OSS functions where state commissions have issued orders approving voluntary or arbitrated agreements between parties on a case-by case basis. The CT DPUC is the appropriate authority to determine if SNET has fulfilled its obligation to provide nondiscriminatory access to OSS functions.

III. SNET HAS BEEN AN INDUSTRY LEADER IN OPENING THE CONNECTICUT LOCAL EXCHANGE MARKET.

A. Operating Support Systems

Prior to the enactment of the Telecommunications Act, the Connecticut Legislature passed Public Act 94-83 establishing rules for local competition, specifically resale and unbundling. In 1995, since SNET expected the majority of CLECs to seek an electronic interface, SNET proposed interface specifications to the CLECs in Connecticut.

SNET's mechanized interface, which is based on industry standards, is an evolving system that continues to be expanded and enhanced. Phase One of the interface, which was completed in 1996, provided for some ordering, provisioning, maintenance, and billing capabilities. Phase Two, which was completed in June, 1997, provides for

[6] *Iowa v. FCC* at 123.

expanded preordering and ordering functionality. Additional capabilities will be completed by October, 1997. SNET was required by the CT DPUC to adhere to an implementation schedule and some of these enhancements have been directed in arbitrations. This is evidence that state commissions are capable and in the best position to ensure ILECs provide access to OSSs.

B. Service Standards

AT&T misrepresents SNET's service measurement proposal. AT&T is correct that SNET has no Section 271 incentive. SNET's motivation is what the FTA, the Commission and the Connecticut DPUC expected, a wholesale focus, on wholesale customers. This is why SNET filed with the CT DPUC on April 15, 1997 nineteen proposed measurements for preordering, ordering, provisioning, maintenance and billing. The CT DPUC established a proceeding to evaluate the nineteen service measurements proposed by SNET. AT&T and MCI have both filed the LCUG proposal for consideration by the CT DPUC. A final decision is expected in November, 1997.

It is appropriate for the state commissions to determine the necessary measures. Connecticut has begun this process which will take into consideration the CLECs and ILEC interests. Therefore, any action by the Commission will delay Connecticut's progress to resolve these issues. CLECs should not use the Commission to overturn agreements negotiated locally. This gaming of the regulatory process delays implementation, wastes resources and is an excellent excuse for not entering the local markets, and is counter to the public interest.

IV. AT&T MISREPRESENTS SNET'SERVICE MEASUREMENT REPORTS.

SNET must also correct AT&T's blatant misstatements regarding SNET's proposed service reports. SNET has proposed, and has committed in various interconnection agreements, to provide service reports containing four specific categories of data; 1) CLEC data, 2) SNET retail data, 3) total CLEC data, and 4) total company data.

Unlike the LCUG, which did not rely on any input from ILECs, SNET did rely on CLEC input. In various discussions with SNET, CLECs requested approximately 116 different measurements. SNET evaluated each measure and determined: (i) the availability of data needed to report the measure; (ii) the changes required to existing tracking system or the scope of any new tracking systems; and (iii) whether the requested measures are currently provided to SNET's retail unit. SNET proposal maps to approximately 80% of the CLECs measurements. The remaining 20% cannot be provided or are beyond that which SNET provides itself. Therefore, SNET's proposed service measurements are more encompassing and reflective of all affected parties.

The CLECs are also attempting to change the performance level of certain service measures. Several interconnection agreements establish the source and level of service to be provided by SNET to the CLEC. To the extent that the LCUG proposal includes

service performance levels different than what has been negotiated, the LCI/CompTel petition is not the appropriate vehicle for modifying these agreements.

For example, SNET has established service intervals for POTS service. The LCUG also proposes service intervals for POTS services above the levels offered by SNET. Changes to the SNET performance levels cannot be made lightly. Changes in performance levels effect work force levels, system changes and increased cost. Therefore, the state commissions can address the appropriate performance level. If the LCUG proposed performance levels are beyond what SNET provides its retail unit it is a superior standard of service. The Eighth Circuit Court decision clearly states that when ILECs provide superior service they should be compensated.[7]
Therefore, if any commission determines that the LCUG performance levels are acceptable, the ILEC must be compensated for all of the ILEC costs.

V. CONCLUSION

SNET has demonstrated an exemplary record in negotiating agreements with CLECs under the requirements of the Act and the Commissions Orders to provide nondiscriminatory access to its OSS. The Connecticut Commission has taken the lead in establishing the terms and conditions for access to OSS functions and service measurements. The Eighth Circuit Court has determined that state commissions are the appropriate authority to impose performance and technical standards involving OSS

[7] *Iowa v. FCC*, at ¶ (32)e. Superior Quality Rules 51.305 (a) (4), 51.311 (c).

access. SNET strongly urges the Commission to close this proceeding and to support the continued efforts at the local level.

Respectfully submitted,

THE SOUTHERN NEW ENGLAND
TELEPHONE COMPANY

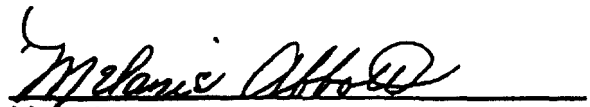
By: Wendy S. Bluemling

Wendy S. Bluemling
Director - Regulatory Affairs
227 Church Street
New Haven, CT 06510
(203) 771-8514

July 30, 1997

CERTIFICATE OF SERVICE

I, Melanie Abbott, certify that SNET's Reply Comments to the foregoing have been filed this 9th day of July, 1997, to all parties in rulemaking 9101.



Melanie Abbott

Service List
Parties in Rulemaking 9101

Secretary -an original and four copies
Federal Communications Commission
Room 222
1919 M Street N.W.
Washington, D.C. 20554

Janice M. Myles -two copies
Common Carrier Bureau
Room 544
1919 M Street N.W.
Washington, D.C. 20554

International Transcription Service -one copy
Room 140
2100 M Street N.W.
Washington, D.C. 20037